

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS  
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Pension Trust	(2) MEETING DATE 7/24/2012	(3) CONTACT/PHONE Tony Petruzzi 781-5465	
(4) SUBJECT Submittal of a resolution which will approve a technical amendment to Section 18.02: <u>Retirement Plan Amendment or Termination of the Retirement Plan</u> as required by the Internal Revenue Service pertaining to the non-forfeiture of accrued benefit.			
(5) RECOMMENDED ACTION It is recommended that the Board of Supervisors adopt the attached resolution which will approve technical amendment to Section 18.02: Retirement Plan Amendment or Termination of the Retirement Plan.			
(6) FUNDING SOURCE(S) n/a	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? n/a
(10) AGENDA PLACEMENT { x } Consent    { } Presentation                      { } Hearing (Time Est. _____)    { } Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS { x } Resolutions    { } Contracts    { } Ordinances    { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)  n/a		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: n/a { } 4/5th's Vote Required            { x } N/A	
(14) LOCATION MAP  N/A	(15) BUSINESS IMPACT STATEMENT?  No	(16) AGENDA ITEM HISTORY  { } N/A    Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW			
(18) SUPERVISOR DISTRICT(S) All Districts -			

# County of San Luis Obispo



TO: Board of Supervisors

FROM: Pension Trust / Tony Petruzzi  
781-5465

DATE: 7/24/2012

SUBJECT: Submittal of a resolution which will approve technical amendment to Section 18.02: Retirement Plan Amendment or Termination of the Retirement Plan.

## Recommendation:

It is recommended that the Board of Supervisors adopt the attached resolution which will approve technical amendment to Section 18.02: Retirement Plan Amendment or Termination of the Retirement Plan.

## Discussion:

The Internal Revenue Service (IRS) has embarked on a program to require public sector retirement plans to undergo a determination review. The purpose of this review is to ensure that public plans are in compliance with the tax qualification requirements established under the Internal Revenue Code (IRC).

In order to ensure compliance with the IRC, staff (Executive Secretary and General Counsel) advised the Pension Trust Board of Trustees that the Retirement Plan needed to undergo a legal review using an expert in this area. The Trustees authorized staff to engage in a RFP process after which the Trust, acting on the staff recommendation, retained the firm of Steptoe & Johnson, a firm specializing in pension plan compliance with the Internal Revenue Code.

The Internal Revenue Service has issued a Determination Letter indicating that the Retirement Plan is in compliance and remains a tax qualified plan. The Determination Letter also requires one minor additional technical amendment to be adopted by your Board for incorporation into the Retirement Plan. The IRS has indicated that the Retirement Plan should be amended to include this provision by September 19, 2012. This amendment adds a provision such that an employee's right to his or her benefit is non-forfeitable upon the attainment of normal retirement age or upon plan termination as required and defined by applicable sections of the Internal Revenue Code. We propose to do this by adding language to Section 18.02 as presented below.

**Section 18.02: Retirement Plan Amendment or Termination.** The Board of Supervisors reserves the right to amend or terminate the Retirement Plan or any part thereof, in such manner as it may determine; provided that no amendment or termination of the Plan or any part thereof shall permit any part of the Pension Trust funds to revert to or be recoverable by the County or to be used for, or diverted to, purposes other than for the exclusive benefit of Members and Participants of the Plan, vested Members and Participants of the Plan and beneficiaries receiving benefits, except such funds, if any, as may remain at the termination of the Plan after satisfaction of all liabilities with respect to Members, Participants, vested Members and Participants and beneficiaries under the Plan, and are due to erroneous actuarial calculations; and provided further that no amendment shall retroactively reduce the benefits of any Member or Participant or beneficiary that have been accrued under the Plan to the date of the amendment.

~~A Member's right to his or her Service Retirement Allowance shall become nonforfeitable on attainment of a Member's Normal Retirement Age under Section 9.01, 9.02 or 9.03 (as applicable) provided the Member has at least five years of Pension Trust service credit.~~

A Member's right to his or her Service Retirement Allowance shall become non-forfeitable on (a) attainment of a Member's Normal Retirement Age under Section 9.01, 9.02, or 9.03 (as applicable), provided the Member has at least five years of Pension Trust service credit, or (b) termination of the Plan.”(12-11-90)(07-12-11)(07-24-12)

This amendment was specifically required by the IRS reviewer assigned to review this plan. The language is that recommended by our Qualification Counsel. Note that this is not a new protection because we have always operated the Retirement Plan in accord with this provision – once a Member becomes eligible to retire they have an inviolate right to their Service Retirement allowance. This language is merely a clarifying statement to that effect.

Other Agency Involvement:

None

Financial Considerations:

None

Results:

This is a ministerial action to clarify the provisions of the Retirement Plan and to maintain compliance with the applicable provisions of the IRC. This will help ensure that the plan remains qualified within the meaning of IRC section 401(a).

**ATTACHMENTS**

1. Resolution